REMARKS

This is in response to the Office Action mailed on <u>December 15, 2003</u>, and the references cited therewith.

Claims 1-34 and 37-41 are now pending in this application.

§103 Rejection of the Claims

Claims 1-2, 4-7, 10-11, 13, 15, 19-20, 22-23, 27-28, 30-31 were rejected under 35 USC § 103(a) as being unpatentable over Corbefin et al. (U.S. Patent No. 6,269,243) in view of Miyake (U.S. Patent No. 5,732,334). Applicant reserves the right to swear behind this Corbefin et al. at a later date. The rejection is respectfully traversed on the grounds that the combination does not teach or suggest all of the elements, and even if they did, the elements are not arranged in the same manner as claimed.

Each of the rejected independent and dependent claims recites: "a controller that controls RF emissions of the wireless phone to maintain the RF emissions below a predetermined level." The Office Action states that Corbefin et al. "do not clearly teach a controller that controls RF emissions of the wireless phone to maintain the RF emissions below a predetermined level", but points to Miyake as teaching a "transmitter that includes a control unit for controlling the transmitter RF output to a predetermined power." Miyake describes a radio transmitter "...to generate an RF output signal having the predetermined power." Col. 3, lines 36-37. This is different than claim 1 for at least two reasons. The controller of claim 1 is part of the telecommunication system, not part of the transmitter of the wireless phone. Also, emissions in claim 1 are kept below a predetermined level. Miyake monitors "the RF output signal so as to obtain an average power level of the RF output signal..." Col. 3, lines 24-25. Since it is dealing with averages, some power levels will be above the controlled point, and some below the controlled point. Thus, it cannot keep emissions below a predetermined level, only near an average. Further, given the level of integration of the control unit into the transmitter of Miyake, including the ability to obtain an average power level, it is not clear how such power level control can be migrated from the transmitter, to a separate controller as claimed.

Claim 2 further describes the functional relationship between the interface device on the aircraft, and the controller. The controller "controls said interface device to maintain the RF

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111
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Page 14
Dkt: 256.159US1

emissions of the wireless phone below a predetermined level." It is quite clear that Miyake does not operate in this manner, and thus the elements are not arranged in the same manner as claimed.

Independent claim 13 is written in means plus function format. The embodiments described in the application all refer to the control of the RF emissions residing external to the wireless phone, and thus clearly distinguish from any potential combination of the references.

Independent claims 19 and 27 recite: "controlling RF emissions of the wireless phone to maintain RF emissions below a predetermined level." As mentioned above, Miyake does not assure that RF emissions are maintained below a predetermined level. It determines an average, and controls to the average.

The remaining claims in this rejection are dependent on a claim that has been demonstrated allowable, and should therefore be in condition for allowance for at least the same reasons.

Claims 3, 14, 21, 29, 37-38 were rejected under 35 USC § 103(a) as being unpatentable over Corbefin et al. in view of Miyake and in further view of Zicker (U.S. Patent No. 5,995,833). This rejection is respectfully traversed. Claims 3, 14, 21 and 29 each depend from a claim which is believed allowable. Zicker is only cited with respect to the roaming features of these claims, and therefore does not provide the elements not taught or suggested by the other references.

Independent claim 37, and its dependent claim 38 both maintain RF emissions below a predetermined level. It is also clear that the base station is the element providing such control. None of the references teach or suggest these two features of claims 37 and 38. As such, a prima facie case of obviousness has not been established, and the rejection should be withdrawn.

Claims 9, 17, 25, 33, 40 were rejected under 35 USC § 103(a) as being unpatentable over Corbefin et al. in view of Miyake and in further view of Ray et al. (U.S. Patent No. 6,108,539). This rejection is respectfully traversed. Each depends on a claim that is believed allowable, and should therefore be allowable.

Allowable Subject Matter

Claims 8, 16, 24, 32, 39 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12, 18, 26, 34, 41 were indicated to be allowed.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and

notification to that effect is earnestly requested. The Examiner is invited to telephone

Applicant's attorney at (612) 373-6972 to facilitate prosecution of this application.

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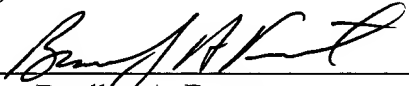
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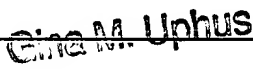
Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this __9__ day of March, 2004.

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